

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

F I L E D
AUG 14 2012

CLERK'S OFFICE
U.S. DISTRICT COURT
ANN ARBOR, MI

UNITED STATES OF AMERICA,
ex rel. RICHARD CHESBROUGH, M.D.,
and KIM CHESBROUGH,

Plaintiffs,

CIVIL NO. 06-15638

vs.

HONORABLE JOHN CORBETT O'MEARA

UNIVERSAL IMAGING, INC., a Michigan
Corporation, PHILLIP J. YOUNG, MARK
LAUHOFF, Jointly and Severally,

Defendants.

_____ /

AGREED ORDER DISTRIBUTING FUNDS

This matter having come before the Court upon the complaint of the United States, and the application of the United States for certain prejudgment remedies as to defendant Mark Lauhoff, the Court having issued the writs of garnishment or other orders restraining funds, the funds having been restrained, the parties having met and resolved the matter, it is agreed:

1. On December 29, 2011, the United States filed its complaint in intervention in the above matter to recover funds that it stated were wrongly paid to Universal Imaging, Inc. through false claims that it stated were submitted or caused to be submitted, *inter alia*, by Mark Lauhoff, and to recover civil penalties and damages as provided in the False Claims Act, 31 U.S.C. § 3729(a). Doc. No. 25.

2. To protect its recovery of the aforementioned funds paid to the Defendants, the United States filed an application for pre-judgment writs of garnishment. Doc. no. 27. The Court

approved the request and writs of garnishment were issued to TCF Bank, JP Morgan Chase, Fifth Third Bank, Comerica Bank, and Gregory J. Schwartz & Co., Inc. Doc. No. 29. Specifically, the writ of garnishment to Gregory J. Schwartz & Co. was served on December 28, 2011, freezing any funds in two accounts numbers 710-0XXX1 (an IRA) and 710-0XXX2 (a trust account).

3. On January 11, 2012, the United States received a copy of the answer from Gregory Schwartz & Co. showing only nominal amounts available to be garnished in account 710-0XXX2, and \$93,923 available in account 710-0XXX1. On November 18, 2011, Mark Lauhoff had moved approximately \$273,000 in funds from account 710-0XXX2 to account 745XXXXXX at Independent Bank, 32800 Southfield Road, Southfield, MI. Mark Lauhoff represents that these funds have not been moved from this 745XXXXXX account, and that he is the sole owner of the account at Independent Bank and the sole owner of the funds deposited at Independent Bank.

4. On January 13, 2012, this Court issued a stipulated order directing Mark Lauhoff to identify the location of the \$273,000 moved on November 18, 2011, and to preserve those assets during the pendency of this litigation, Doc. No. 37.

5. Mark Lauhoff and the United States have entered into a settlement agreement which shall resolve the complaint.

The parties having met and resolved the matter,

IT IS ORDERED that **GREGORY SCHWARTZ & CO.** shall promptly liquidate the funds subject to the writ of garnishment in accounts 710-0XXX1 (IRA) and 710-0XXX2 (trust account), plus all accrued and accruing interest from the date of the Answer of the Garnishee dated January 11, 2012. **GREGORY SCHWARTZ & CO.** shall pay those funds to the United States in accordance with the written instructions that shall be forwarded to **GREGORY**

SCHWARTZ & CO. under separate cover and shall provide an accounting to Mark Alan Lauhoff as to the total amount of funds so transferred; and

IT IS ORDERED and agreed that Mark Alan Lauhoff shall direct **INDEPENDENT BANK** promptly to liquidate certain of the funds subject to the Court's Order of January 13, 2012 and shall direct **INDEPENDENT BANK** to pay those funds in account 745XXXXXX to the United States as required in accordance with a Settlement Agreement among the parties pursuant to the wiring instructions that shall be forwarded to **INDEPENDENT BANK** under separate cover; and

IT IS ORDERED that upon verification to the Court of the receipt of \$350,000 by the United States, that both the writ of garnishment and the order contained in Docket No. 37 shall be released and of no further force and effect.

Date:

August 14 2012



John Corbett O'Meara
United States District Judge

STIPULATION

The parties, through their undersigned counsel, agree to the terms of and to the entry of the above-stated Agreed Order Distributing Funds.

STIPULATED AS TO FORM AND SUBSTANCE, with permission:

By:

s/Joan E. Hartman

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Attorney for the United States

Dated: August 9, 2012

By:

s/Alan C. Harnisch, Esq.

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Attorney for Defendant Mark Lauhoff

Dated: August 9, 2012